

Supplementary Planning Guidance Note

Retention of Local Facilities



Draft Supplementary Planning Guidance Retention of Local Facilities

1. Purpose

- 1.1 The Council has set out in its Local Development Plan (LDP) an intention to prepare a series of Supplementary Planning Guidance Notes (SPG). The purpose of each SPG is to:
- assist the preparation of planning proposals and guide pre-application discussions,
 - guide officers in handling, and officers and councillors in deciding, planning applications,
 - assist Inspectors in the determination of appeals,
 - improve the quality of new development,
 - facilitate a consistent and transparent approach to decision making.

2. The LDP and the need for SPG

- 2.1 The Welsh Government Development Management Manual advises in para 9.1.2 that 'Applications for planning permission must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. The Flintshire LDP was adopted on 24/01/23 and forms the basis for decision making alongside Future Wales: The National Plan. However, the LDP cannot provide all the detailed advice needed to guide development proposals. SPG's can support the LDP by providing more detailed guidance on topics and issues to help the interpretation and implementation of policies and proposals. The Development Plans Manual Ed. 3 advises that 'Supplementary Planning Guidance (SPG) can be taken into account as a material planning consideration provided it is derived from and is consistent with the adopted development plan and has itself been the subject of consultation, which will carry more weight'. The intention of SPG's is not to set out 'policy' as that is the role of the LDP, but to provide more detailed advice and guidance which expands on a particular policy or allocation in the LDP.

3. Status / Preparation Process

- 3.1 The Council indicated in its Delivery Agreement (DA) for the LDP that it intends to prepare SPG. The DA explained that the Council will consult on any draft SPG and, following consideration of representations, and any necessary amendments, seek formal adoption. This approach accords with Welsh Government advice in Development Plans Manual (Edition 3).
- 3.2 This SPG was consulted on for a 6-week period commencing on 12/07/24 and ending on 23/08/24. Representations and responses, together with any amendments to the draft document were considered by Cabinet at its meeting on ZZ/ZZ/ZZ who resolved to adopt this SPG. Consultation comments, responses and any amendments are set out in Appendix 1. This document should therefore be afforded considerable weight as a material planning consideration.

4. Introduction

- 4.1** This guidance note explains the approach the Council will take when dealing with proposals which will result in the loss of local facilities to other uses. It is the Council's aim to ensure all reasonable steps have been made to retain local facilities in an attempt to promote sustainable communities.
- 4.2** Facilities which perform a social as well as an economic role are an important asset to any community. These facilities can include a:
- » local shop;
 - » post office;
 - » public house
 - » Church Hall/Village Hall
 - » primary healthcare facility;
 - » petrol filling station;
 - » children's nursery;
 - » community centre; or
 - » other building performing a social or economic function.
- 4.3** The decline of local facilities is attributable to a variety of circumstances including changing consumer patterns, increased mobility, economies of scale and the effects of the Covid pandemic. However, the presence of local facilities is considered an important component in maintaining sustainable communities. The continued presence of local facilities often prevents the need to travel to the larger retail and commercial centres and serves as a vital service to the less mobile, the young and the elderly sections of the community. For instance, local shops can also serve as an outlet for complimentary services, including a post office, or such facilities could be incorporated in a pub.
- 4.4** There is a wealth of help and support available for current shop owners and community groups wishing to stem the decline of local facilities (Appendix 1 provides details). There is no one approach that is suitable for all, essential however, is the drive and enthusiasm of those involved to ensure the continued viability of a village shop with concerted effort and action. For instance, the Plunkett Foundation is a charity dedicated to the protection of local shops and has experience in helping groups save facilities.

5. Policy

- 5.1** Planning Policy Wales (PPW) edition 12 supports the concept of Placemaking in the context of plan making and development management decisions. PPW recognises the role that community facilities play in Placemaking and its contribution to the health and well-being of people; *“Community facilities contribute to a sense of place which is important to the health, well-being and amenity of local communities and their existence is often a key element in creating viable and sustainable places. They can include schools, cultural facilities, health services, libraries, allotments, and places of worship.”*

- 5.2** The Flintshire LDP recognises the importance of retaining local facilities for community life, particularly where local people do not have easy access to any alternatives, with the inclusion of policy STR6 Services, Facilities and Infrastructure and PC12 Community Facilities. Policy STR6 provides a general context, recognising that an essential element in planning for sustainable places is that physical and social infrastructure exists, to ensure that development can be sustainably accommodated within communities. Policy PC12 (as shown in Appendix 2) sets out where new development in the form of community facilities will be permitted. Suitable sites within settlement boundaries would be acceptable whereas outside of settlement boundaries the policy supports the conversion of existing buildings, the extension of an existing facility and the use of suitable brownfield or previously developed land, which adjoins a settlement boundary.
- 5.3** The policy does not seek to prevent alternative uses but rather ensure that all reasonable consideration has been given to the possibility of retaining the facility, in the context that the retention of local services is considered essential to promoting sustainable communities. The Council considers it is reasonable that economic viability is among the material considerations it will take into account when determining planning applications.
- 5.4** The Council's position is supported by the national policy context. PPW12 in paragraph 4.3.41 states *"The economic and social role of local shops, village shops and public houses should be taken into account when considering applications for a change of use of existing shops into dwellings or other uses. In rural areas local planning authorities should adopt a positive approach to applications for conversion of suitable village properties to shops and for extensions to village shops designed to improve their viability. A positive approach should also be taken, subject to amenity considerations, to re-establishing a public house in villages which have completely lost such provision. The lack of public transport in rural areas should not preclude small-scale retail or service development where this will serve local needs."*
- 5.5** Technical Advice Note 6 Planning for Sustainable Rural Communities recognises the importance of essential local services to rural communities. Para 5.1.2 states *'Outside identified service centres planning authorities should support the provision of local facilities, especially where they would be of benefit to rural residents distant from existing facilities. Multi-purpose use may be an appropriate way to ensure service viability, particularly in more remote areas'*. TAN6 also encourages local authorities to take a positive approach to proposals which would help to retain local facilities, and to set out the criteria that will apply when considering applications which result in a loss of a local facility.

6. The application of the policy

- 6.1** Policy PC12 will be applied to all applications which propose the loss of buildings or premises that are currently, or were last in use as a local facility, regardless of their condition and appearance. The first consideration is whether there is an alternative facility which is accessible to the local community. The alternative must be similar to the existing facility and offer similar services or range of goods. It must also be in an accessible location so that it is able to be conveniently used by local residents. If this criterion is met then there would be no need for further criteria to be applied, as the community would still be adequately served. If there is no such alternative facility then there are two tests to be considered, to ensure that the loss of a facility is properly justified:
- i) The facility has been vacant or unused for a minimum of 1 year.
 - ii) Genuine attempts have been made to market the facility for a minimum of 1 year.
- 6.2** In such cases it is necessary to understand and evidence the circumstances which have led to the loss of the facility and whether there is potential for it to be re-established. Therefore, the Council aims to evaluate the viability of the facility by building up a picture of why the facility is not living up to its potential and also the potential of the facility. It is possible with a different approach or even management for facilities to continue to serve local communities as well as provide a decent living for those running them. As a result, the Council will require any application changing the use of a local facility to be accompanied by a 'statement of efforts' and 'proof of marketing'.

7. Statement of efforts

- 7.1** The statement of efforts is an opportunity for the applicant to substantiate their view that the facility is no longer a commercial proposition and that nobody could reasonably be expected to make a living from it.
- 7.2** The applicant or a suitably qualified representative (e.g. a Chartered Surveyor) must describe and certify the reasonable efforts made to sell or lease the property as a local facility at a reasonable and realistic price, reflecting the economic market during that period of marketing. Reference to an inadequate return on investment or lack of market demand will not be sufficient justification alone to demonstrate that the facility cannot be retained and used for the benefit of the community.
- 7.3** In the statement of efforts the Council would also expect the applicant to provide an explanation of the social role of the facility in the community; the nature of the facility and the products it sells; why the facility is no longer economically viable; the attempts made to safeguard the facility such as diversification; and the distance to alternative local facilities of the same or a similar nature available.
- 7.4** Each application will be looked at on its own merits and as such it may be that certain facilities would be suitable for community ownership transfer. Community

ownership can be a sustainable model for protecting local assets and facilities. It can unlock additional community benefits and help communities shape the things that matter most to them locally. There is support available in such circumstances through the Community Ownership Fund and more information can be found at <https://www.gov.uk/government/publications/community-ownership-fund-prospectus/community-ownership-fund-prospectus> If it was felt that community transfer would be a viable solution it would be required, as part of the statement of efforts, to demonstrate whether a local community group had been approached to discuss this option further and the outcome as a consequence.

8. Proof of marketing

- 8.1** In order to satisfy the proof of marketing the applicant must provide evidence to demonstrate that the facility has been widely marketed for sale or lease as a going concern, through an agent/surveyor, at a reasonable price that reflects its current market value for the authorised use for at least 12 months and that no reasonable offer has been refused. The 'proof of marketing' must include:
- i. A copy of all the sales particulars for the marketing period.
 - ii. Details of the number of enquiries and viewings.
 - iii. Details of any offers received and an explanation of why they were dismissed.
- 8.2** The 'proof of marketing' must also include evidence to substantiate the following:
- i. The facility has been regularly advertised in the local press and regional press, specialist trade papers and any free papers covering relevant areas. Initially this should be intense (weekly) advertising in local papers for the first month and subsequently monthly insertions for the remaining 11 months.
 - ii. The premises have appeared continuously on the agent/surveyor's website, own papers or publications and lists of commercial/business/retail premises.
 - iii. There has been an agents/surveyor's 'for sale' or 'to let' advertisement board on the site frontage throughout the period. In instances where there has been a decision not to display an advertisement board applicants must explain the reasoning for not doing so.
 - iv. Local property agents, and where the facility in question is a shop or pub, specialist commercial/retail agents have been sent mail shots or hard copies to find out whether there is demand for such facilities/premises in the area.
 - v. Local businesses/local community groups (where relevant) have been contacted and sent mail shots or hard copies to explore whether they can make use of the building (or part of) as alternative or additional community accommodation.
 - vi. Details of the last 3 years trading accounts with a separate breakdown of the income from food and drink sales. The books may need to be checked by an independent auditor. This should be financed by the applicant.
 - vii. The applicant must undertake a sustainability assessment which would evaluate what other services and facilities are available in the wider area and evidence should be provided of this exercise.

- 8.3** If an application for the change of use of a local facility is received before marketing has begun then it is appropriate that the price should be agreed with all parties before marketing begins. Use may be made of an independent valuer such as a District Valuer, paid for by the applicant and instructed by the Council. The Council will, if necessary, seek specialist advice when assessing the viability of facilities. The Council may feel the need to extend the period of marketing in times of flat or falling markets or if the marketing exercise is considered to be inadequate.

9. Consideration of Planning Application

- 9.1** The Council will consider the extent to which each proposal satisfies the policy criteria based on the evidence submitted by the applicant relating to the statement of efforts and proof of marketing exercise. In doing so there are a number of other considerations that should be taken into account as part of the planning balance:

- Public and other stakeholder comments on the application
- The effect the loss of the facility would have on certain groups in the community and their reliance on the continuation of the facility.
- The impact on travel patterns and use of the private car which may result from the loss of the facility.
- The availability of public transport such as bus routes and the frequency of them.
- The impact the change of use may have on the viability of a community.
- If the building is listed or in a conservation area, the impact of any alterations or the change of use itself.
- Constraints e.g., visitor potential, location, area served, building condition, parking provision, etc
- the acceptability of the proposed new use having regard to development plan policies and development management considerations.

10. Conclusion

- 10.1** The objective of the policy and this guidance note is not to cause financial hardship to owners of such facilities. Rather, the aim of the Council is to adopt a precautionary approach to ensure that all reasonable efforts have been made to retain local facilities. By following the advice in this guidance note, applicants will be providing pertinent information to aid the determination of a planning application in a timely manner.

Appendix 1

Business support and advice in Flintshire

Flintshire County Council provide a range of services to Flintshire's business community by encouraging new businesses to start up and existing businesses to grow and work with a wide range of partner organisations to develop and deliver initiatives. A range of financial assistance may be available to support businesses depending on its size, area of work and business location. Flintshire County Council's Business Development Team provides up to date information on available funding for new and expanding businesses.

Email: BusDev@flintshire.gov.uk

<http://www.flintshire.gov.uk/business>

Business support, information and advice from the Welsh Assembly

FS4B is an information service provided by the Welsh Assembly Government. It contains details of support around finance, premises, training, tendering and free business workshops, along with information resources, link directories, business news and events. Formerly known as Business Eye. Search their Grants and Support Directory for potential sources of help.

Redundancy Action Scheme

Did you know that ReAct funding could be the first step to starting your own business? Although ReAct funding cannot be used to set up the business itself, the Vocational Training award can be used to pay for any course that will help you become better equipped to succeed. You might want to go on a course to learn a trade or you might want to improve your business skills and start a marketing or accountancy course.

<http://business.wales.gov.uk>

Pub is the Hub

The Pub is The Hub is an initiative which encourages local authorities, local communities, licensees, pub owners and breweries to work together to support, retain and locate services within rural pubs. Pub is the Hub assists with guidance on availability of project funding, and having a thorough understanding of the pub business, is able to advise on the best way to progress with each individual project.

<http://www.pubisthehub.org.uk/>

Plunkett Community Shop Network

The Plunkett Foundation is the only national organisation supporting community-owned village shops across the UK. There are now over 260 community owned shops trading in England, Scotland and Wales. Most of these have been established through the support of the Plunkett Foundation.

<http://www.plunkett.uk.net/>

Welsh Council Voluntary Association- WCVA

WCVA is the national membership body for voluntary organisations in Wales. They provide information and support on retaining community assets, there is a list of funding available from different sources on their website. For further guidance visit <https://wcva.cymru/views/how-retaining-assets-empowers-communities/>

Appendix 2

STR6: Services, Facilities and Infrastructure

An essential element in planning for sustainable places is to ensure that the physical and social infrastructure exists, or can be provided, to ensure that when and where development occurs, it can be sustainably accommodated within communities.

Delivered through a combination of recognised infrastructure providers, public organisations, and private investment, new development will contribute to the provision of a range of key infrastructure, where necessary to mitigate the impacts of new development, comprising:

- i. Affordable housing;
- ii. Green infrastructure including open space and play space;
- iii. Education and health facilities;
- iv. Highways, walking and cycling and public transport improvements and electric vehicle charging points;
- v. Ecological mitigation;
- vi. Water management (supply, drainage, treatment);
- vii. Electricity and gas;
- viii. Telecommunications and Broadband;
- ix. Community and town centre facilities;
- x. Public realm and public art.

PC12: Community Facilities

The development of new education, health and community facilities will be permitted on suitable sites within settlement boundaries. Outside settlement boundaries such developments will only be permitted:

- a. through the conversion of existing buildings; or
- b. by extension to an existing facility; or
- c. adjoining a settlement boundary or on suitable brownfield or previously developed land;

provided that no suitable facility, land or building exists within a settlement boundary which could accommodate the proposed use.

The following sites are allocated for new community facilities:

1. Community Centre at Wood Lane, Ewloe.
2. Land for a cemetery extension at Greenfield;
3. Land for a cemetery extension at Treuddyn.

The loss of neighbourhood or village shops, halls, public houses and other community facilities (or parts thereof) will only be permitted where:

- a. the local community would continue to be served by accessible alternative facilities; or
- b. the facility has been vacant or un-used for a minimum of one year; and
- c. genuine attempts to market the facility for a community use for a minimum of one year have been unsuccessful.

Appendix 3

The marketing assessment

Where proposals for the loss or change of use of part of a community facility would prejudice the long term-viability and sustainability of the facility as a whole, they will not be permitted, unless certain criteria are met. In respect of the marketing of community facilities, these criteria apply whether the facility is still in use or vacant. Applicants will have to demonstrate that the facility has been actively marketed at a realistic price based on an appropriate market value which reflects the existing use. A planning application will need to be accompanied by a statement addressing the following points:

The marketing exercise must include:

- » Marketing through a recognised and independent property agent.
- » Continuous advertisement on the agents own website and publications.
- » Regular advertising for at least a year in a local / regional newspaper / specialist publications / websites (for the first month this should be intensive advertisement and marketing).
- » A 'for sale' and / or 'to let' board on the site frontage throughout the period (any decision to not have a display board must be sufficiently justified).
- » Notification to Flintshire County Council's Economic Development Unit.

Evidence must include:

- » Copies of the sales particulars.
- » Copies of all advertisements with dates.
- » Details of when and where the advertisement was displayed by the agent, and the latter's particulars.
- » Details of the number of enquiries / viewings.
- » Details of any offers received and an explanation of why they were not accepted.
- » A short statement by the agent of the building's viability for business use in the light of the marketing exercise.